

February 16, 2021

Ann E. Misback  
Secretary  
Board of Governors of the Federal Reserve System  
20th St. and Constitution Ave NW  
Washington, DC 20551

*Via email to [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov).*

**Re: Community Reinvestment Act Advance Notice of Proposed Rulemaking**  
**Docket No. R-1723, RIN No. 7100-AF94**

Dear Ms. Misback,

The undersigned consumer, community, civil rights, housing, small business, and other public interest organizations write this letter in response to the Federal Reserve Board (FRB or Board)'s advance notice of proposed rulemaking (ANPR) on the Community Reinvestment Act (CRA).

We commend the FRB for engaging in a thoughtful process that focuses on the intent of the CRA statute that relies on data and provides the opportunity for meaningful public input. We agree with the Board's rightful focus on strengthening the regulatory and supervisory framework for CRA to "more effectively meet the needs of low- and moderate-income (LMI) communities and address inequities in credit access."<sup>1</sup> We thank you for not adopting the Office of the Comptroller of the Currency's rushed CRA rule, which many of our groups opposed because it threatens to harm the very communities the CRA is meant to serve and puts billions of dollars of investment at risk.<sup>2</sup> We appreciate the FRB's recognition of fair lending responsibilities, community engagement, and data as important components to include when considering changes to the CRA framework.

After passing the Fair Housing Act and the Equal Credit Opportunity Act, Congress passed the CRA in response to discriminatory practices that excluded some communities from the financial marketplace. The Community Reinvestment Act was intended to curb redlining and racial discrimination, and to make access to credit more equitable. By requiring banks to address the credit needs of the communities where they take deposits, the CRA has played a crucial role in making credit more available to communities of color and increasing investment in LMI neighborhoods. Over the past two decades, banks have increased their small business and

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<sup>1</sup> FR 66410.

<sup>2</sup> National Community Reinvestment Coalition, "[Proposed Changes To CRA Puts Billions In Lending At Risk Each Year](#)," February 12 2020.

community development lending to trillions of dollars in total to respond to their CRA responsibilities.

The longstanding failure of the financial industry to serve all communities remains a key force driving and maintaining the nation's racial and economic inequality, which is more evident than ever during the ongoing COVID-19 emergency. We appreciate the FRB's direct recognition and consideration of the economic impact of the pandemic on LMI households as part of this CRA rulemaking process. The COVID-19 pandemic has presented challenges for all families, but people of color and LMI communities have borne the brunt of illness and economic devastation because of discrimination and socioeconomic disparities.<sup>3</sup> Although the CRA alone cannot solve these problems, it is a tool that can and should be used to facilitate a better recovery for communities of color and LMI neighborhoods. In order for it to serve this purpose, and the broad goals of the statute, it is critical that any changes to the CRA framework be limited to measures that will increase equity in bank investments and access to sustainable, wealth-building credit in underserved communities as the statute intended. Below we outline a number of key principles and approaches we think should guide reform.

### Incorporating Race into CRA

We urge the FRB to directly incorporate race into CRA exams. Redlining and disinvestment have been a systemic feature of the financial system for decades. The CRA was passed with the intent to reverse those specific harms, but the current regulatory structure does not take into account the racial compositions of the communities that banks are required to serve. Over forty years later, communities of color remain at a disadvantage because of the insidious discrimination that formerly redlined communities continue to face today. The COVID-19 pandemic has highlighted these disparities. People of color make up a disproportionate number of COVID-19 cases, hospitalizations, and deaths.<sup>4</sup> In San Francisco, Asian-Americans accounted for more than 50% of COVID-19 deaths and the highest proportion of deaths for all racial groups during the first two months of the pandemic.<sup>5</sup> As of last fall, African-Americans were becoming infected and dying from COVID-19 at rates more than 1.5 times their share of the population, and Hispanics and Latinos had a disproportionately high rate of infection in almost every state.<sup>6</sup> Formerly redlined neighborhoods not only have greater poverty rates, but also have lower life

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<sup>3</sup> Centers for Disease Control and Prevention, "[Health Equity Considerations and Racial and Ethnic Minority Groups](#)," February 12, 2021.

<sup>4</sup> Golden, Sherita Hill. "[Coronavirus in African-Americans and Other People of Color](#)." *Johns Hopkins Medicine*. April 20, 2020.

<sup>5</sup> Asian-American Research Center on Health, "[High Mortality from COVID-19 among Asian Americans in San Francisco and California](#)." May 2020.

<sup>6</sup> Wood, Daniel. "[As Pandemic Deaths Add Up, Racial Disparities Persist - And In Some Cases Worsen](#)." *NPR*. Sept. 23, 2020.

expectancies and higher incidences of preexisting conditions that heighten risk of morbidity in COVID-19 patients.<sup>7</sup> According to Census Bureau Household Pulse Survey data for the period January 6-18, Black and Hispanic homeowners were more than twice as likely as white homeowners to report being late on their mortgage. A few months into the pandemic, 41% of Black-owned small businesses had shuttered, in comparison to only 17% of White-owned businesses.<sup>8</sup>

In order for CRA to be a truly effective tool to address the harms of redlining, the CRA regulatory framework should explicitly include race to properly evaluate whether banks are actually meeting the credit needs of people and communities of color. Borrowers and businesses of color are not equivalent to LMI communities. While some of the issues may overlap, communities of color also have different experiences that should be examined separately from LMI status to account for those particular concerns.

CRA performance measures should directly examine lending, investing, community development financing and banking services to people of color and in communities of color to combat the pervasiveness of racial inequities in the banking system, with an evaluation that considers any and all disparities in marketing, originations, pricing, terms, and default rates and how they correlate with race. CRA exams should include racial and ethnic demographic data in performance context analysis and require banks to affirmatively include communities of color in their assessment areas.

In addition to directly incorporating race into the CRA examination process, the FRB could also expand the definition of underserved areas to give CRA credit for community development lending and investing in majority minority census tracts outside of assessment areas, as the Board is considering for Indian Country. Allowing banks to get CRA credit for lending and investing in neighborhoods of color, even if they are outside the bank's CRA main assessment area, will increase investment in communities that have often been unable to access responsible wealth-building credit.

### End Grade Inflation

Under the current CRA framework, approximately 95% of banks pass their CRA exams with a "satisfactory" or "outstanding" rating. Because of this high grade inflation, the current CRA ratings system is not an accurate or fair reflection of how banks are doing at serving their communities. It is simply untrue that the overwhelming majority of banks are doing a

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<sup>7</sup> National Community Reinvestment Coalition, "[Redlining and Neighborhood Health](#)," Sept. 10, 2020.

<sup>8</sup> Brooks, Rodney A. "[More than half of Black-owned businesses may not survive COVID-19](#)." *National Geographic*. July 17, 2020.

“satisfactory” or “outstanding” job at meeting community needs. LMI households and borrowers of color still struggle to access sustainable credit to build wealth and expand their businesses, and investment in their communities is insufficient. The FRB should not set CRA benchmarks at historic rating distributions. CRA reform measures should result in banks doing more to serve these communities, not maintaining the status quo. Present grade inflation should be recalibrated with higher standard requirements that motivate banks to provide greater investment, and banks that do not follow through should be evaluated accordingly with lower ratings.

Ending grade inflation is particularly important in the context of bank mergers. CRA ratings play an important role in bank mergers, but because of grade inflation, a bank’s CRA rating often does not provide an accurate picture of how well a bank is meeting community needs. Therefore, a bank’s CRA rating cannot be used to provide meaningful consideration of the potential impact of a merger on the availability and quality of services. CRA grade inflation is particularly problematic here because of the way mergers often negatively affect LMI households and borrowers of color. For example, the FDIC found that one of the primary reasons for not having a bank account was high bank account fees.<sup>9</sup> Because larger banks generally have higher bank fees and higher minimum balance requirements that make it harder for LMI households to get or maintain an account, mergers effectively shut out consumers who cannot afford those fees or maintain balances from the banking system by limiting other options.<sup>10</sup> A 2005 Federal Reserve Board study found that bank fees were higher in more concentrated markets and that banks operating in multiple markets charged substantially higher fees than banks operating in only one market.<sup>11</sup>

To prevent grade inflation, the FRB should not allow rating upgrades for banks with one or two extra credit activities to make up for poor service in certain areas, and only allow extra credit when a bank goes above its existing obligations to serve underserved areas. In addition, the Board should not eliminate the sub-ratings of “high satisfactory” or “low satisfactory,” because these ratings allow the public to distinguish between the many banks that receive a “satisfactory” rating and encourage banks to improve and to strive for more. The current inflated ratings system should be reformed to provide a more accurate assessment of a bank’s CRA activities and maintain nuances in ratings to provide a more accurate reflection of how well banks are doing at serving their communities and provide the ability to compare banks.

Banks should also be downgraded, or when appropriate, fail their CRA exams if they are found to discriminate, displace, or harm the communities the CRA is meant to reach. No CRA credit

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<sup>9</sup> Appam, Gerald et al. FDIC. “[2017 FDIC National Survey of Unbanked and underbanked Households](#).” October 2018 at 4.

<sup>10</sup> Bord, Vitay M. Harvard University. “[Bank Consolidation and Financial Inclusion: The Adverse Effects of Bank Mergers on Depositors](#).” December 1, 2018 at 8.

<sup>11</sup> Hannan, Timothy H. Federal Reserve Board. “[Retail Deposit Fees and Multimarket Banking](#).” Staff Paper 2005-65. December 2005 at 27.

should be given to banks that illegally discriminate against certain types of borrowers, increase displacement, or otherwise engage in predatory lending practices. The current CRA framework does not account for such harm in the rating process, often allowing banks to pass their CRA exams without considering the damage a bank may be causing in other areas of its business. Findings of displacement, consumer harm, and violation of any civil rights or consumer protection laws should trigger greater scrutiny and negative consequences under the CRA. No bank should be allowed to pass its CRA exam if a regulator finds evidence of discrimination. Findings of discrimination should result in an automatic downgrade in a bank's CRA rating that remains in place until the bank's next CRA evaluation, and the bank should remain under close scrutiny until there is sufficient evidence that changes have been made to address the problematic practices.

### Quality of Lending and Investments

As mentioned above, the CRA framework should explicitly include race, and retain its focus on the impact of investments on LMI communities. We support the continued separate evaluation of lending to low-income and moderate-income borrowers and oppose lumping LMI altogether because low- and moderate-income communities may have different needs to consider. All potential CRA investments and services should be examined with a specific focus on how they are affecting communities of color and low- and moderate-income communities.

CRA examiners should look beyond the dollar value of CRA investments to the pricing, terms and features, and evaluate their community impact on the borrowers and communities they are intended to benefit. We support the FRB's proposed enhancements of the retail services test to provide a more detailed review of services, branches and bank products on communities, and in particular, the inclusion of consumer lending on CRA exams. CRA examiners should analyze data on fees, costs and default rates to ensure that a bank's consumer lending is responsible and sustainable and takes into account the borrower's ability to repay. Only safe and responsible consumer lending and services should qualify for CRA activity. CRA credit must not be allowed for payday loans or other high-cost predatory products that trap borrowers in a cycle of debt with hidden fees and costs. A bank that is "renting" out its bank charter through a partnership with an abusive payday lender in order to exceed state interest rate caps and issue unaffordable loans is not meeting credit needs, but instead facilitating consumer harm and extracting wealth. Banks who engage in rent-a-bank partnerships that violate state consumer protection laws should be downgraded on their CRA exams. New products and programs targeted towards the unbanked and underbanked, which often include LMI consumers and communities of color, should be scrutinized to make sure they are in compliance with consumer protection laws and provide access to the financial mainstream and wealth-building credit, not a subpar secondary financial market.

CRA exams should scrutinize pricing in a more systematic manner, and accompanying fair lending reviews should be particularly attentive to price discrimination. Taking mortgages as an example, the Black homeownership rate reached record lows before the COVID-19 pandemic, and studies show that Black and Latinx borrowers still pay more for their mortgages and are more likely to receive a high-cost mortgage.<sup>12</sup> A study by the Federal Reserve Bank of Minneapolis found that Native Americans had mortgage rates on average nearly two percentage points more than non-Native Americans.<sup>13</sup> The Home Mortgage Disclosure Act (HMDA) provides demographic and geographic data and corresponding terms for mortgage loans. Examiners should use HMDA data to evaluate banks on the quality of their mortgage loans, the populations they are serving, and neighborhoods where they are building homeownership. We also support prioritizing CRA credit for loan originations for owner-occupants over loan purchases when they allow LMI families or borrowers of color to become homeowners.

Banks should not receive satisfactory CRA ratings if they are offering loans with predatory terms, discriminatory pricing, or engaging in abusive debt collection practices. In addition, the CRA qualitative criteria should give lower scores to banks that are charging high fees and rates to underserved populations and should award higher scores for affordable and sustainable products.

CRA should also consider the overall impact of an investment on LMI families and neighborhoods, with particular attention to whether an investment may increase displacement and gentrification. We appreciate the Board's focus on affordable housing, which is a pressing need in many of these communities. CRA credit for housing investments must remain targeted to developing and maintaining affordable housing for LMI households. While an explicit pledge to retain affordability is one step, unsubsidized multifamily affordable housing should only be given CRA credit if there are mechanisms in place to prevent subsequent withdrawal of the pledge by current or future owners. Data collection on rents and tenant composition should be required to make sure the units remain affordable. CRA credit should not be given for mortgage loans made to middle- or upper-income borrowers in LMI neighborhoods that may fuel gentrification. Banks should also be downgraded for investments that facilitate displacement of LMI families or exclude people of color.

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<sup>12</sup> Bartlett, Robert, Adair Morse, Richard Stanton, Nancy Wallace. UC Berkeley, "[Consumer Lending in the Fin-Tech Era](#)." November 2019; Quillian, Lincoln, John J. Lee, Brandon Honoré, "Racial Discrimination in the U.S. Housing and Mortgage Lending Markets: A Quantitative Review of Trends, 1976-2016." *Race and Social Problems*. 12, 13–28(2020).

<sup>13</sup> Feir, Donna and Laura Cattaneo. Federal Reserve Bank of Minneapolis. "[The Higher Price of Mortgage Financing for Native Americans](#)." Sept. 27, 2019.

## Data Collection

We support the FRB's proposals to collect improved community development and deposit data to evaluate the availability, usage, and impact of bank activity in this area. Data is crucial to evaluate which products, services, and investments are the most effective and the actual impact on the communities they are intended to serve. Community development and deposit data should be collected on a census tract level or at least on a county level so that CRA exams can better target community development financing to areas of need. The lack of a database on community development activities makes it impossible to determine CRA hot spots and deserts. Effectively targeting underserved areas with community development financing is not possible without data being available at a census tract and county level. Rigorous ratings, performance measures, assessment area definitions and data collection are necessary if CRA is to meaningfully increase access to credit and capital to communities of color, LMI neighborhoods, Native American reservations and other underserved areas and populations, including older adults, people with disabilities, and consumers with limited English proficiency.

The Board should require collection of data on marketing, pricing, terms, defaults, and collections to provide examiners and the public with the information they need to evaluate whether a bank's practices are in fact helping or exacerbating community credit needs.

## Assessment Areas

Bank presence remains important to LMI communities and communities of color, and especially to seniors, customers with limited English proficiency, and communities with limited broadband access. CRA assessment areas should maintain a focus on bank branches for this reason. We support the Board's retail services subtest that will evaluate branch-based services and appreciate the consideration of bilingual services and disability accommodation, as well as non-branch delivery channels. Given the expansion of bank services beyond branches, we also support Board's proposals to expand assessment areas to include areas outside of branches with significant amounts of bank activity, including lending, marketing, online deposit-taking, debt collection, and other products and services that represent a significant share of bank business and a significant market share in a given community. An assessment area should capture the geographic locations where a bank's business is concentrated.

We strongly oppose national assessment areas for internet banks. A nationwide assessment area that is everywhere is meaningless because it is not tied to anywhere. It undermines the CRA requirement that banks serve the local communities where they do business. Banks should be examined for their presence in the places their business is concentrated. A nationwide assessment area would allow internet banks to cherry pick which areas to focus their retail and

community development activities for CRA credit, gravitating towards serving those areas in which it is easiest to conduct CRA activities rather than areas most in need of credit and investment. Such an approach also cannot take into account such qualitative aspects of these products as to their responsiveness to the varying needs of LMI customers and borrowers of color across communities. Community context is an important variable for any evaluation of impact on LMI communities and neighborhoods of color.

Even if an online bank's services are available nationwide, internet banks do not have an even distribution of loans and services throughout the country. Data analysis can designate areas where high numbers of retail loans or deposits are located for internet banks. A better option would be to employ the very benchmarks that are already being used by CRA examiners to evaluate a bank's mortgage, small business, and farm lending at the local level. These same tests can be applied to the local retail markets served through the internet. This system for covering all the markets where a bank has a retail presence is consistent with the legislative focus on local communities in which the institution is chartered to do business. The correct focus is evaluating the bank's services in the locations where its retail business is concentrated, which can be evaluated without the presence of a physical deposit-taking facility.

All banks, including branchless banks or those that have online and branch operations, must have local assessment areas for evaluating their performance as the CRA intended. The Board should adopt an approach that captures the vast majority of a bank's loans on CRA exams, whether it is a traditional or nontraditional bank, in order to be most effective in increasing access to safe and sound credit and banking services, which will be particularly important for LMI neighborhoods and communities of color as they seek to recover and rebuild after the pandemic has subsided.

### Community Participation

The Board identifies increasing community participation as one of the objectives for this rulemaking. Community members provide invaluable knowledge and perspective about their community credit needs. The CRA process should create opportunities for greater community involvement by increasing their role in the examination and bank merger process. Strengthening the role of community contacts, input, comments, and participation and the significance of 'performance context' in the CRA process will help to ensure that bank activity is in fact closely tied to community needs. Enhanced data collection and public access will enable community members to better inform the regulators and provide more relevant input. The FRB should establish a minimum of 90 days for public comment on merger and other bank applications, provide that public hearings will be held on such applications if community concerns are raised, and expedite Freedom of Information Act requests during applications to allow the public to provide informed input and raise concerns as appropriate.

The FRB should also encourage banks to develop Community Benefits Agreements (CBAs) with community groups. The role of community benefits agreements should be formalized within the CRA to ensure that communities of color and LMI communities have a role in identifying credit and investment needs that CRA can meet and to increase accountability for financial firms serving these neighborhoods. In particular, CBAs should be incorporated into the bank merger process, with agreed upon CBAs written into any merger approvals and included in any future bank CRA reviews and examinations to make sure that access to quality credit and services does not decrease. CRA exams should incorporate more community contacts and review of community group reports and related research in determining community needs, bank performance, and whether products and services are helping or hurting communities. Also, CRA regulators should expand and improve the data they report publicly in uniform formats to allow for ongoing independent analysis.

Discriminatory lending practices, furthering displacement pressures, and violating consumer protection laws, including engaging in unfair and deceptive practices, should be grounds for a CRA downgrade, with all such consideration informed by community input as part of the investigation and evaluation process.

### Small Business Lending

The failures of the Paycheck Protection Program (PPP) and experiences of small business owners during the COVID-19 pandemic shed light on the longstanding inequity in access to credit for businesses owned by people of color and women.<sup>14</sup> By several months into the pandemic, 440,000 Black-owned businesses had shuttered,<sup>15</sup> which was 41% of the total of all Black-owned businesses. Only 17% of white-owned businesses closed during this same time period.<sup>16</sup> The PPP was created to provide much-needed support for struggling small businesses, but the Small Business Administration (SBA) did not prioritize access to the PPP program for underserved small businesses — including those owned by people of color and women — as required by the statute. The SBA’s Inspector General found that this failure meant that “minority- and women-owned businesses may not have received loans as intended.”<sup>17</sup>

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<sup>14</sup> Center for Responsible Lending. [“The Paycheck Protection Program continues to be disadvantageous to smaller businesses, especially businesses owned by people of color and the self-employed.”](#) May 27, 2020.

<sup>15</sup> Brooks, Rodney A. [“More than half of Black-owned businesses may not survive COVID-19.”](#) *National Geographic*. July 17, 2020.

<sup>16</sup> Fairlie, Robert W. National Bureau of Economic Research. [“The Impact of Covid-19 on Small Business Owners: Evidence of Early-Stage Losses from the April 2020 Current Population Survey”](#) June 2020.

<sup>17</sup> SBA Inspector General. [“Flash Report: Small Business Administration’s Implementation of the Paycheck Protection Program Requirements.”](#) May 8, 2020; CARES Act §1102(a)(2)(P)(iv).

At the Treasury Department's direction and encouragement, the majority of banks participating in the program offered these loans only to existing borrowers.<sup>18</sup> A 2020 Federal Reserve study found that fewer than one third (32 percent) of Latinx-owned small businesses and fewer than one-fourth (23 percent) of Black-owned small businesses had received a bank loan in the previous 5 years compared to nearly half (46 percent) of white-owned small businesses, leaving many businesses owned by people of color without the bank relationships that proved necessary to get access to PPP assistance. While the Los Angeles Lakers and Shake Shack used their existing banking relationships<sup>19</sup> to easily access PPP money,<sup>20</sup> a Goldman Sachs survey found that Black-owned businesses were less likely to apply and more likely to get rejected for PPP loans.<sup>21</sup> A National Community Reinvestment Coalition investigation found that African American testers applying for PPP loans for their small businesses during the pandemic were likely to receive less information or encouragement to apply than white testers.<sup>22</sup>

Increasing access to credit for small businesses is a crucial part of the CRA's mandate to meet the credit needs of communities. This goal can only be achieved if the focus remains on truly small businesses. The ANPR highlights the need for small businesses to be able to access smaller loans, but also proposes to increase the revenue size threshold for the definition of a small business from \$1 million to \$1.65 million in revenue. The CFPB has found that the great majority of small businesses had revenues under \$1 million, and about 76% of all small businesses had annual receipts under \$100,000.<sup>23</sup> The CRA should retain its focus on businesses with less than \$1 million in revenue by providing more CRA credit for small business lending that is targeted to truly small businesses who need it most, including businesses owned by people of color and businesses serving LMI communities. We support additional CRA credit for investments in locally owned businesses and related community development services as a tool for building local wealth. Locally owned businesses keep more money within the community and have an important multiplier effect on the local economy.

More data is critical to expand access to credit to businesses owned by people of color, serving neighborhoods of color, or benefitting LMI communities. Section 1071 modifies the Equal Credit Opportunity Act to require financial institutions to collect and report race, ethnicity, gender, and neighborhood data about small business credit applicants, details about their

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<sup>18</sup> U.S. House of Representatives. Select Committee on the Coronavirus Crisis. "[Underserved and Unprotected: How the Trump Administration Neglected the Neediest Small Businesses in the PPP.](#)" October 2020 at 6 to 8.

<sup>19</sup> Flitter, Emily and Stacy Crowley. "[Banks Gave Richest Clients 'Concierge Treatment' for Pandemic Aid.](#)" Apr 22, 2020.

<sup>20</sup> Zarroli, Jim. "[Even The Los Angeles Lakers Got A PPP Small Business Loan.](#)" Apr. 27, 2020.

<sup>21</sup> Goldman Sachs. "[Help \(still\) wanted.](#)" April 27, 2020.

<sup>22</sup> Lederer, Anneliese and Sara Oros. National Community Reinvestment Coalition. "[Lending Discrimination Within the Paycheck Protection Program.](#)" July 15, 2020.

<sup>23</sup> Consumer Financial Protection Bureau (CFPB), [Key Dimensions of the Small Business Lending Landscape](#), p. 10, May 2017.

businesses, and the action taken by financial institutions on their applications. In order to prevent further exclusion, it is imperative to understand the challenges that business owners of color face in accessing credit and to ensure that financial institutions are complying with fair lending laws. Such a task is only possible with thorough data collection and analysis of the small business lending market.

After Section 1071 is implemented, CRA exams should incorporate this data. The current CRA exam analysis of whether small businesses under \$1 million in revenue are receiving loans is incomplete. Within this broad category of businesses with revenues under \$1 million are several business categories that typically generate much less annual revenue, such as hair salons and home daycares, who have even less access to loans. Taking into account the many smaller businesses in need of responsible credit, CRA examiners should take a closer look at small business loans with greater consideration of the number of loans made to small businesses below the revenue cap in tiers, the demographics of the business owners, and the impact of the businesses on LMI neighborhoods and communities of color.

Like consumer loans, it is also important that banks are evaluated on the quality of their small business lending, and not just their quantity. CRA credit should only be provided for loans that provide businesses with access to responsible credit on fair terms that allow owners to build or maintain their businesses. Banks who offer merchant cash advances or loans with other predatory features should be downgraded, and banks who engage in discriminatory pricing should also be penalized. In combination with our earlier recommendation that race be explicitly incorporated into CRA exams, banks who lend to business owners of color and in neighborhoods of color should have that incorporated into their evaluations as well.

A CRA rating is often most relevant when a bank merger is being considered, which is particularly relevant for small businesses because bank consolidation can reduce small business lending and have a disproportionate impact on the ability of businesses owned by people of color and women and very small businesses to access credit. Studies have found that small businesses pay higher interest rates in more concentrated banking markets.<sup>24</sup> A 2014 Massachusetts Institute of Technology paper found that large bank merger-driven branch closures reduced small business lending for several years and that the decline was concentrated in lower-income areas and communities of color.<sup>25</sup> As noted above, enhanced data collection, public access to information, and increased community participation should be built into the merger process with particular consideration of how a merger may impact a community's access to small business credit. The public input process should directly include small businesses in the area whenever

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<sup>24</sup> Carletti, Elena, Philipp Hartmann, and Giancarlo Spagnolo. "[Implications of the bank merger wave for competition and stability](#)." Risk Measurement and Systemic Risk, Proceedings of the Third Joint Central Bank Research Conference. January 2002 at 40.

<sup>25</sup> Nguyen, Hoai-Luu. Massachusetts Institute of Technology. "[Do Bank Branches Still Matter? The Effect of Closing on Local Economic Outcomes](#)." December 2014 at 3.

possible. Mergers should not be permitted if they decrease availability of small business credit or the quality of such credit.

### Climate Change and Environmental Concerns

Climate change and environmental racism pose existential threats to the very communities the CRA was meant to protect. Centuries of redlining and other racist housing and lending practices have segregated people of color, particularly African Americans, into neighborhoods that face chronic disinvestment and higher levels of lead exposure, poorer air quality, and exposure to toxic chemicals in their air, water, and food due to their close proximity to landfills, fossil fuel power plants, hazardous waste sites, and other industrial facilities.<sup>26</sup> In the past year, individuals in these communities have also been particularly vulnerable to contracting COVID-19 and experiencing its worst effects when they do. Their excessive exposure to environmental hazards, such as air pollution, contributes to respiratory and heart diseases that make individuals more susceptible to severe disease.<sup>27</sup>

And as climate change has accelerated in recent years, another facet of systemic environmental racism has become clear: communities of color are also far more vulnerable to climate impacts which harm the environment, vital infrastructure, public health, and which represent a persistent drag on local economies. Since climate-vulnerable communities are often forced to coexist with polluting power plants, they are harmed twice by fossil fuel pollution, first from toxic chemicals released into the environment and their bodies, and later by the compounding effect of carbon pollution that warms the climate and eventually batters their communities with severe storms, floods, fires, and heat.<sup>28</sup>

One of the major causes of disparate climate impacts: LMI neighborhoods, communities of color and their local economies tend to be more *physically* susceptible to persistent flooding, sea level rise, severe storms, and heat waves.<sup>29</sup> With respect to chronic warming, LMI individuals and people of color are at a greater risk of illness and injury from extreme heat due to lack of access to healthcare and medical infrastructure, lack of access to air conditioning, and living in

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<sup>26</sup>Bell, Jasmine. Center for American Progress. "[5 Things to Know About Communities of Color and Environmental Justice.](#)" Apr 26, 2016.

<sup>27</sup>Worland, Justin. Time. "[Why the Larger Climate Movement is Finally Embracing the Fight Against Environmental Racism.](#)" Jul. 9, 2020.

<sup>28</sup> Zonta, Michela and Zoe Willingham. Center for American Progress. "[A CRA to Meet the Challenge of Climate Change.](#)" Dec. 17, 2020.

<sup>29</sup> National Academies of Sciences, Engineering, and Medicine, Framing the Challenge of Urban Flooding in the United States, The National Academies Press, 2019; Hoffman, J., et al., The Effects of Historical Housing Policies on Resident Exposure to Intra-Urban Heat: A Study of 108 US Urban Areas, Climate, January 13, 2020, 8(1), 12-26.

communities with hotter ambient temperatures due to the urban heat island effect.<sup>30</sup> And decades of racist housing and lending practices have pushed them into neighborhoods that are also more susceptible to flooding, often within the lowest-lying areas of coastal cities, and with less green space to absorb flood waters.<sup>31</sup>

Compounding the problems of physical susceptibility, LMI communities and communities of color also have fewer resources to *recover* from natural disasters which have become more frequent and severe because of climate change. In recent decades, record setting storms like Hurricane Katrina and Superstorm Sandy have devastated local economies and household finances, and around 40 percent of businesses never reopen after a major natural disaster.<sup>32</sup> LMI households often have lower savings buffers to deal with natural disasters, they face difficulty accessing federal relief, and they are subject to the longest post-disaster financial recovery periods.<sup>33</sup>

The CRA can be an effective tool to contribute to addressing these longstanding problems; it not only requires regulators to ensure banks serve the credit needs of the entire community, but allows them to reward lending practices that improve equity and enhance economic resilience, and potentially to penalize lending practices that are discriminatory and cause disparate impacts.<sup>34</sup> As climate change and environmental harms disproportionately fall on frontline communities, the lending practices which cause climate change, and those that mitigate climate impacts, must be included into the CRA's evaluation criteria. Regulators should incorporate climate resilience and climate-friendly development standards when assessing essential community needs and infrastructure. Accordingly, they should provide CRA credit for investments that promote climate resilience or mitigate climate change in communities of color and LMI communities. Conversely, they should refuse CRA credit for funding projects that exacerbate environmental damage, and take into account harmful impacts of institutions' lending on the sustainability, viability, and health of communities of color and LMI communities.

A new CRA regulatory framework should encourage investments in projects that have the strongest potential to advance community resilience and disaster preparedness in the most climate-vulnerable communities. New CRA eligible projects should include the development and

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<sup>30</sup> [Heat Waves and Climate Change: The Effects of Worsening Heat on People, Communities, and Infrastructure \(2018\)](#)

<sup>31</sup> Frank, Thomas. Scientific American. "[Flooding Disproportionately Harms Black Neighborhoods.](#)" Jun 2, 2020.

<sup>32</sup> Scott, Ryan. Forbes. [Will Your Business Recover From Disaster?](#) Sept 4, 2014.

<sup>33</sup> Urban Institute. "[Improving the Disaster Recovery of Low-Income Families.](#)"

<sup>34</sup> Winnie Taylor, "The ECOA and Disparate Impact Theory: A Historical Perspective," *Journal of Law and Policy*, 26, 2018; Graham Steele, "ESG carrots and climate sticks: Evaluating the roles of mandates and incentives in climate financial regulation," *The FinReg Blog, Duke Global Financial Markets Center*, July 2020.

construction of energy efficient and climate resilient affordable housing, schools, and businesses; community clean energy projects and microgrids; nature-based protective infrastructure; electrified public transit and electric vehicle charging infrastructure; new parks and green spaces; health facilities to treat heat-related illness; expansion opportunities for green small businesses; disaster preparedness products; investments to address pollution from toxic sites in the community, including rehabilitation of facilities into renewable energy sites, remediation of lands that have been contaminated, and related improvements that make these sites safer for the environment and surrounding communities; and other community investments that minimize climate risks and serve LMI communities and communities of color. This climate focus should always be integrated with the focus on LMI communities and communities of color, and projects must serve, and not displace, people in these communities. Regulators should assess how CRA investments are meeting community environmental needs and the corresponding public health and economic impacts, and codify climate resilience as a beneficial activity within the CRA credit and rating process.

### Conclusion

The purpose of the CRA is to combat redlining and disinvestment by requiring banks to serve the communities where they do business and provide safe and affordable credit to people of color, LMI households, and the neighborhoods and businesses that make up their communities. All changes to the CRA should be guided by this purpose, evaluating loans and services to people of color, increasing community building investment to LMI communities and neighborhoods of color, and providing an accurate reflection of how banks are meeting the needs of these communities. Thank you for giving us the opportunity to comment on the FRB's proposals regarding the CRA. We look forward to continuing to engage with the Board on these important issues.

If you have any questions please contact Linda Jun, Senior Policy Counsel, at [linda@ourfinancialsecurity.org](mailto:linda@ourfinancialsecurity.org).

Sincerely,

Americans for Financial Reform Education Fund  
American Sustainable Business Council  
Better Markets  
California Reinvestment Coalition  
Center for Community Progress  
Consumer Action

Consumer Federation of America  
Illinois People's Action  
Main Street Alliance  
Massachusetts Communities Action Network  
NAACP  
National Consumer Law Center (on behalf of its low-income clients)  
National Fair Housing Alliance  
National Housing Resource Center  
National Urban League  
New Jersey Citizen Action  
Save Us Now Inc  
Small Business Majority  
Strategic Organizing Center (formerly Change to Win)  
Texas Appleseed  
U.S. PIRG Education Fund